IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 18TH JULY 2007 / 27TH ASHADHA 1929

WP(C).No. 34391 of 2004(T)

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ORDER DT.17.11.2004 IN OS.1/2004 of SUB COURT, NEDUMANGAD

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PETITIONER:

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SAHADEVAN, S/O.SANKARAN,
AGED 52 YEARS, KUZHIVILAKATHU HOUSE,
IRINJAYAM, ANADU, THIRUVANANTHAPURAM.

BY ADV. SRI.G.P.SHINOD
SRI.RAM MOHAN.G.
SRI.MANU V.

RESPONDENT:

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KRISHNAKUMAR, S/O.KRISHNANKUTTY,
AGED 42, PUTHEN VEEDU, CHIRAKKUZHI,
ERUMEDU, ARYANADU, THIRUVANANTHAPURAM.

BY ADV. SRI.NAGARAJ NARAYANAN
SRI.SAIJO HASSAN
SRI.A.S.SABU
SRI.VIMAL KUMAR.A.V.
SRI.A.G.GIRISH KUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.34391/04

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE COPY OF DOCUMENT DT.5.1.01 ALLEGED TO HAVE BEEN EXECUTED BY DEFENDANT.

EXT.P2 – TRUE COPY OF ORDER DT.17.11.04 IN O.S.1 OF 2004 OF SUB COURT, NEDUMANGAD.

/TRUE COPY/

**PIUS C. KURIAKOSE, J.**

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W.P.(C)No.34291 OF 2004

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DATED THIS THE 18th JULY, 2007

**J U D G M E N T**

Heard Sri.V.Manu, counsel for the petitioner and Sri.Nagaraj Narayanan, counsel for the respondent.

2. Drawing my attention to Article 50 of the Schedule to the Kerala Stamp Act, Mr.Manu submitted that Article 50 cannot have any application at all to Ext.P1 document. The finding that Ext.P1 document is a bond is not under challenge. Therefore, Ext.P1 is liable to be stamped as a bond under Article 13, counsel submitted.

3. I have gone through Ext.P1. I find it difficult to construe Ext.P1 as an agreement though Ext.P1 is styled as an agreement. Moreover, the finding that Ext.P1 is a bond is not seen challenged. Under these circumstances, I set aside Ext.P2 and hold that Ext.P1 document is liable to stamp duty in terms of Article 13.

The Writ Petition is allowed as above. No costs.

**(PIUS C.KURIAKOSE, JUDGE)**

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